

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

STEPHEN J. LAWSON

Claimant

VS.

**MERIDIAN NURSING &
REHABILITATION CENTER**

Respondent

AND

ARCH INSURANCE COMPANY

Insurance Carrier

Docket No. 1,012,583

ORDER

Respondent and its insurance carrier appealed the October 21, 2003, preliminary hearing Order entered by Administrative Law Judge (ALJ) John D. Clark.

ISSUES

Judge Clark found that “[c]laimant was injured out of and in the course of his employment with the [r]espondent on August 21, 2003.”¹ Dr. Daniel J. Prohaska was authorized as the claimant’s treating physician and all medical was ordered paid. In addition, Judge Clark ordered the respondent to pay temporary total disability compensation beginning August 22, 2003 and continuing until claimant is released.

Respondent argues that claimant failed to prove that he suffered an accidental injury arising out of and in the course of his employment with respondent. Due to the lack of credible evidence, respondent argues that claimant’s request for preliminary benefits should be denied.

¹ Order (Oct. 21, 2003).

Claimant contends he has met his burden of proof to establish he suffered a work-related accident and is entitled to his requested medical and temporary total disability benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record compiled to date and the parties' briefs, the Appeals Board (Board) makes the following findings of fact and conclusions of law:

At a preliminary hearing held on September 18, 2003, before ALJ John D. Clark, claimant testified that he injured his left knee while working for respondent on August 18, 2003. Claimant presented the medical records of the Via Christi Medical Center and three physicians, Dr. Prohaska, Dr. Benjamin R. Norman, and Dr. Stephen J. Schneider. Dr. Prohaska's history and physical examination form states, "32 year-old white male seen at the request of [w]orkers [c]ompensation today on an urgent basis for his left knee complaining of pain starting as early as 08/01/03."² Under "Present History," Dr. Prohaska wrote that Mr. Lawson "works at Meridian Nursing and Rehabilitation in maintenance and has been doing a lot of tile work for the last 8-10 months and so has been on his knees a lot."³ Dr. Norman also reported after his examination of claimant on August 25, 2003, that claimant had been working for some time laying tile. Dr. Schneider's progress notes dated August 26, 2003, state "related to working on floor."⁴

Based upon the record compiled to date, the Board finds claimant's testimony concerning the cause of his knee injury is credible and together with the other evidence, satisfies claimant's burden of proof that it is more probable than not that his injury is work-related. Consequently, the Board upholds the determination of Judge Clark.

WHEREFORE, Administrative Law Judge John D. Clark preliminary hearing Order dated October 21, 2003 is affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 2004.

BOARD MEMBER

² P.H. Trans., Cl. Ex. 1.

³ *Id.*

⁴ *Id.*

- C. Joni J. Franklin, Attorney for Claimant
 Terry J. Torline, Attorney for Respondent and Archer Insurance Company
 John D. Clark, Administrative Law Judge
 Paula S. Greathouse, Workers Compensation Director